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October 11, 2000

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FEDERAL COMMUNICATIONS COMMISSION  
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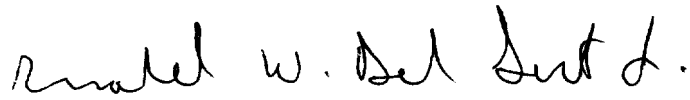
**Re: File No. NSD-L-00-169; CC Docket No. 96-98;  
Reply Comments of RCN-BecoCom, L.L.C.**

Dear Secretary Salas:

On behalf of RCN BecoCom, L.L.C. ("RCN"), enclosed please find an original and four (4) copies of RCN's reply comments in the above-referenced docket. Please date stamp and return the enclosed extra copy. Concurrent with this filing, RCN is submitting two (2) copies of its reply comments to the Network Services Division.

Should you have any questions with respect to this matter, please do not hesitate to call Ron Del Sesto at (202) 945-6923.

Respectfully submitted,



Ronald W. Del Sesto, Jr.

Counsel for RCN BecoCom, L.L.C

Enclosure

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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In the Matter of	)	
	)	File No. NSD-L-00-169
Massachusetts Department of	)	
Telecommunications and Energy	)	
Petition for Delegation of Additional	)	CC Docket No. 96-98
Authority to Implement Number	)	
Conservation Measures	)	

**REPLY COMMENTS OF  
RCN-BECOCOM, L.L.C**

**I. Introduction**

RCN-BecoCom, L.L.C. ("RCN") by undersigned counsel and pursuant to the Common Carrier Bureau's August 29, 2000 Public Notice,<sup>1</sup> submits its reply comments in the above-captioned proceeding. In these reply comments, RCN recommends that the Federal Communications Commission ("FCC") direct the Massachusetts Department of Telecommunications and Energy ("DTE") to reserve a pool of initial numbering codes specifically for carriers that build facilities in order to provide telecommunications services. In comments filed with the FCC on September 27, 2000, RCN recommended that the FCC reject the DTE's request for authority to set and/or revise rationing procedures. In these reply comments, RCN recommends that if the FCC should grant the

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<sup>1</sup> *Common Carrier Bureau Seeks Comment on the Massachusetts Department of Telecommunications and Energy Petition for Delegation of Additional Authority to Implement Number Conservation Measures in Massachusetts*, NSD File No. L-00-169, Public Notice, DA 00-1982 (rel. Aug. 29, 2000).

DTE's request to set and/or revise rationing procedures, the FCC should condition such grant on the DTE collaborating with the industry prior to adopting and/or revising any rationing procedures. RCN also joins WorldCom, Inc. in suggesting that the FCC deny the DTE's request to set number allocation standards and instead urges the FCC to adopt national standards. Finally, RCN highlights the fact that the DTE does not need additional numbering authority to address number exhaust caused by carriers hoarding numbering resources.

## **II. The FCC Should Establish a Pool of Initial NXX Codes for Carriers that Construct Their Own Networks**

RCN would like to clarify a recommendation set forth in their comments submitted on September 27, 2000 in response to the DTE's petition. RCN suggested that the FCC direct state commissions to reserve an NXX code for carriers that are building their own networks to provide services, as distinguished from those that provision service through purchasing unbundled network elements ("UNEs").<sup>2</sup> RCN would like to clarify that their recommendation is for the FCC to direct the state commissions to reserve a pool of initial NXX codes for use by carriers that construct their own network rather than a single NXX code. Reservation of a single NXX code would do little to help providers that build their own networks as one NXX code would provide little relief.

As set out in RCN's comments, carriers that build their own networks are not able to obtain numbering resources as rapidly as those that provision service through the use of UNEs.<sup>3</sup> The FCC's new rules governing the distribution of numbering resources require carriers to verify their need for

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<sup>2</sup> See *RCN Comments*, at p. 2.

<sup>3</sup> See *RCN Comments*, at pp. 3-4.

numbering resources in order to obtain initial numbering codes.<sup>4</sup> Carriers receive initial codes if the carrier is able to provide service within sixty (60) days of the effective date of the initial numbering codes. Carriers that provide service through UNEs need only to enter into an interconnection agreement with a facilities-based provider to be in the position to request codes. However, carriers that build their own networks must purchase and install all of the equipment necessary to provide telecommunications services. Installing facilities also requires that constructing carriers obtain the necessary rights-of-way permits and other time-consuming tasks that are unique to companies engaged in the building out of their own network. Thus, such carriers are at a distinct disadvantage in obtaining initial numbering codes based on the new rules adopted by the FCC. In order to continue to encourage companies to install their own facilities, it is necessary for the FCC to assure such carriers that they will have access to numbering resources when they are in the position to request NXX codes.

### **III. The DTE Should Have to Work with the Industry in Establishing or Revising Rationing Procedures**

In RCN's comments filed on September 27, 2000, RCN recommended that the FCC deny the DTE's request for authority to set and/or revise rationing procedures. RCN highlighted the fact that "extenuating and unique" circumstances do not exist in Massachusetts to justify deviation from the rule that a state commission must have adopted a relief plan and set a date for relief prior to engaging in rationing procedures. Also, the new numbering rules set out in the FCC's numbering order will make rationing less necessary than in the past. Since carriers must verify need and certain

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<sup>4</sup> See *Numbering Resource Optimization*, CC Dkt. No. 99-200, FCC 00-104, Report and Order and Further Notice of Proposed Rulemaking, (rel. March 31, 2000) ("*Numbering Order*"), at ¶¶ 88-91.

utilization rates must be achieved prior to requesting growth codes, the immediate demand for new numbering resources will no longer exist as it did when new NPAs were introduced under the old rules. Furthermore, the new numbering rules do not allow state commissions to engage in rationing.<sup>5</sup>

If the FCC should allow the DTE to set and/or revise rationing procedures despite RCN's objections summarized above and provided in detail to the FCC in its September 27, 2000 comments, RCN requests that it not provide the DTE with the unilateral authority to engage in such activities. The FCC should require that prior to setting and/or revising rationing procedures, the DTE must collaborate with the industry in establishing and/or revising rationing procedures. RCN is concerned that the DTE will use this authority to forestall actual number relief, such as implementing area code overlays. This concern is not a hypothetical one as other state commissions have suspended area code relief plans in favor of pooling and rationing. As the FCC is well aware, rationing artificially reduces demand for numbering resources and restricts the ability of new market entrants to compete with monopoly providers. Rather than grant the DTE unfettered authority to engage in rationing, the FCC must limit its grant to mandate collaboration with the industry in setting and/or revising rationing procedures.

#### **IV. The FCC Should Reject the Massachusetts Department of Telecommunications and Energy's Request to Set Number Allocation Standards**

RCN joins the comments submitted by Worldcom, Inc. in recommending that the FCC reject the DTE's request to establish number allocation standards.<sup>6</sup> While it may appear relatively harmless in individual cases to delegate numbering authority to state commissions that are more familiar with

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<sup>5</sup> See *RCN Comments*, at pp. 4-7.

<sup>6</sup> See *Worldcom, Inc. Comments*, at p. 2.

local circumstances, the overall effect of these delegations is to create up to 50 different sets of rules that a carrier like RCN must comply with. Furthermore, the FCC has already determined that number code allocation standards should be governed by national rule and has sought comment on the appropriate utilization level.<sup>7</sup> As set out in the FCC's *Numbering Order*, the FCC will establish a national utilization threshold for non-pooling carriers by January 1, 2001.<sup>8</sup> Rather than delegate authority to the DTE now which will be preempted in the near future, the FCC should deny the DTE's request.

**V. The DTE Does Not Need Any Additional Authority to Address NXX Code Shortage Due to Hoarding by Carriers**

RCN would like to highlight the fact that the DTE focuses on the presence of a unified message provider in western Massachusetts as much of the cause for filing its petition.<sup>9</sup> The DTE argues that the presence of the unified message provider is one of the contributing factors to the existence of "special circumstances" in Massachusetts.<sup>10</sup> The DTE further notes that a particular unified message provider possesses 26 NXX codes in western Massachusetts alone.<sup>11</sup>

RCN submits that it is not necessary for the FCC to delegate any additional authority to the DTE in order for the DTE to address this problem. The FCC has already delegated the necessary

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<sup>7</sup> See *Numbering Order*, at ¶ 115.

<sup>8</sup> See *id.* (stating that the FCC would establish a national utilization threshold for non-pooling carriers by January 1, 2001).

<sup>9</sup> See *Massachusetts Department of Telecommunications and Energy's Petition for Additional Numbering Authority*, at pp. 5-6, 11-12.

<sup>10</sup> See *id.* at p. 11.

<sup>11</sup> See *id.* at p. 5-6.

authority for the DTE to engage in number reclamation activities.<sup>12</sup> To the extent that a service provider is not utilizing codes assigned to it, the DTE already has the authority to direct the North American Numbering Plan Administrator to reclaim the codes. The DTE also has the power to reject any requests for extensions to activate central office codes. Therefore, to the extent that the DTE's petition relies on the fact that a particular carrier is hoarding codes, the FCC does not have to grant the DTE any additional authority for the DTE to solve this problem. Furthermore, the DTE presents no argument as to why the entire industry should be subject to restrictions on numbering resources if in fact one carrier is hoarding substantial numbering codes which is causing the problem of number exhaust in western Massachusetts.

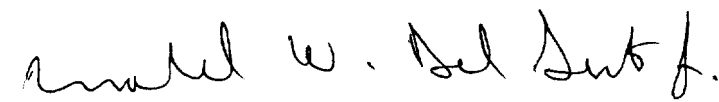
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<sup>12</sup> See *Numbering Order*, at ¶ 237.

## VI. Conclusion

RCN requests that the FCC direct the DTE to reserve a pool of initial numbering codes for carriers constructing their own networks since it takes such carriers a longer period of time to be in the position to apply for the necessary codes. If the FCC should grant the DTE authority to set and/or revise rationing procedures, RCN requests that the FCC condition such grant on requiring the DTE to collaborate with the industry prior to setting and/or revising rationing procedures. The FCC should deny the request of the DTE to set number allocation standards and RCN urges the FCC to establish national standards in this area. Finally, RCN highlights the fact that the DTE does not need additional authority from the FCC to reclaim codes from carriers hoarding numbering resources.

Respectfully submitted,



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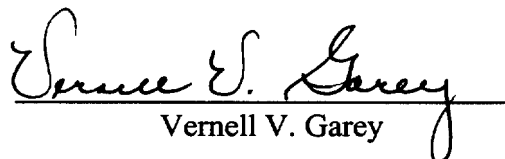
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Dated: October 11, 2000



## CERTIFICATE OF SERVICE

I, **Vernell V. Garey**, hereby certify that on October 11, 2000 the foregoing document was served on the individuals listed on the following service list by first-class U.S. Mail (or by overnight delivery/hand-delivery, as marked\*).

  
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